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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA, PHOENIX**

8 Everest Indemnity Insurance Company as
9 Subrogee of Silvicom, Inc.,

10 Plaintiff,

11 v.

12
13 Mohamed Abdulle and H & L Brothers
14 Transport, LLC,

15 Defendants.

Case No.

**NOTICE OF REMOVAL TO UNITED
STATES DISTRICT COURT**

16
17 Defendant H & L Brothers Transport, LLC (hereinafter, the "Defendant"), by and
18 through counsel undersigned and pursuant to 28 U.S.C. § 1332, 1441 and 1446, hereby submits
19 this Notice of Removal to the United States District Court for the District of Arizona of this
20 proceeding, filed in the Superior Court of Arizona, Coconino County, under the caption *Everest*
21 *Indemnity Insurance Company as subrogee of Silvicom, Inc. v. Mohamed Abdulle and H & L*
22 *Brothers Transport, LLC*, No. S0300CV2019-00342, and provides as grounds for removal the
23 following:

24 **BACKGROUND**

25 1. There is complete diversity between the parties to this case and the amount in
26 controversy exceeds the sum of \$75,000.00 exclusive of interest and costs. Accordingly, this
27 Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and it is properly removed
28 pursuant to 28 U.S.C. § 1446.

2. On July 9, 2019, Plaintiff commenced this action in the Superior Court of Arizona, Coconino County, under the caption *Everest Indemnity Insurance Company as subrogee of Silvicom, Inc. v. Mohamed Abdulle and H&L Brothers Transport, LLC*, No. S0300CV2019-00342 (hereinafter, the "Complaint").

3. Plaintiff served Defendant with a copy of the Complaint, Summons, and Certificate of Arbitration on July 18, 2019, attached as **Exhibits A, B, and C**, respectively. This Notice of Removal is filed within 30 days of the date of service in compliance with 28 U.S.C. § 1446(b).

4. Defendant has not pled, answered, or otherwise appeared in this action.

5. Notice of the filing of this Notice of Removal has been given to Plaintiff by service of a copy of this Notice of Removal upon Plaintiff's attorney as required by 28 U.S.C. § 1446(d).

6. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Superior Court of Arizona, Coconino County, in accordance with the provisions of 28 U.S.C. § 1446(d), along with a notice of that filing.

NATURE OF THIS ACTION

7. This is a subrogation action arising out of a motor vehicle accident involving two (2) tractor-trailers which occurred on August 12, 2017 in Coconino County, Arizona. The driver for Plaintiff's insured, Silvicom, Inc. (hereinafter, "Silvicom"), was driving on the eastbound side of Interstate 40 in Coconino County. Around that time and in the same area, Defendant's driver, Mohammed Abdulle (hereinafter, "Abdulle") was driving Defendant's tractor-trailer on the westbound side of Interstate 40. Abdulle, while operating Defendant's tractor-trailer, crossed the median of the freeway and struck Silvicom's tractor-trailer. This impact resulted in a fire which allegedly destroyed Silvicom's vehicle and cargo. Plaintiff alleges it paid \$405,380.00 to Silvicom pursuant to its insurance policy.

8. Defendant does not have sufficient information at this time to adequately respond to Plaintiff's various allegations, therefore Defendant disputes Plaintiff's allegations contained in its Complaint.

JURISDICTION

9. This action is a civil action of which this court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the matter in controversy is alleged to exceed the sum of \$75,000.00.

10. For purposes of determining diversity and pursuant to 28 U.S.C. § 1332(c)(1), Plaintiff is a citizen of the State of Delaware, the state of Plaintiff's incorporation, and New Jersey, the state where Plaintiff has its principal place of business. (See Complaint attached hereto as **Exhibit A**, ¶ 1).

11. For purposes of determining diversity, Defendant is a business entity in the State of Michigan, the state of its incorporation and its principal place of business. (See **Exhibit A**, ¶ 4).

12. For purposes of determining diversity, other defendant Mohamed Abdulle is a citizen of Ohio, the state of Abdulle's residence. (See **Exhibit A**, ¶ 5).

13. Complete diversity of citizenship exists between all parties in this action. Therefore, a diversity jurisdiction is proper under 28 U.S.C. § 1332(a), and this action is properly removed to the United States District Court of Arizona, pursuant to 28 U.S.C. § 1441.

CONCLUSION

For the reasons stated above, this action is within the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332(a). Accordingly, this action is removable pursuant to 28 U.S.C. § 1441(a).

WHEREFORE, Defendant hereby prays that the action be removed from the Arizona Superior Court for Coconino County to the United States District Court for the District of Arizona, and that further proceedings in the Arizona Superior court regarding the action be dismissed.

1 DATED: August 19, 2019
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WOOD, SMITH, HENNING & BERMAN LLP

By: /s/ Jill Ann Herman

JILL ANN HERMAN

CHRISTOPHER K HEO

Attorneys for H & L Brothers Transport, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of August, 2019, I electronically transmitted the attached document to the Clerk's office using the CM/ECF System for filing and transmittal of the Notice of Electronically Filing to the following CM/ECF registrants and U.S. Certified Mail:

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